

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41155

STATE OF IDAHO,)	2014 Unpublished Opinion No. 775
)	
Plaintiff-Respondent,)	Filed: October 17, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
GENA LARENE JONES,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Gem County. Hon. George A. Southworth, District Judge.

Order revoking probation and reinstating previously suspended unified fifteen-year sentences with seven-year determinate terms for aiding and abetting lewd conduct with a minor under the age of sixteen and sexual abuse of a child under the age of sixteen, affirmed.

Sara B. Thomas, State Appellate Public Defender; Shawn F. Wilkerson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Chief Judge; LANSING, Judge;
and GRATTON, Judge

PER CURIAM

Gena Larene Jones pleaded guilty to aiding and abetting lewd conduct with a minor under the age of sixteen, Idaho Code § 18-1508, and entered an *Alford*¹ plea to sexual abuse of a child under the age of sixteen, I.C. § 18-1506. The district court imposed concurrent, unified fifteen-year sentences with seven-year determinate terms. The court suspended the sentences and placed Jones on probation. Jones subsequently admitted to violating the terms of her probation. At the

¹ See *North Carolina v. Alford*, 400 U.S. 25 (1970).

probation violation disposition hearing, Jones moved the district court for a sentence reduction. The district court revoked probation and ordered execution of the underlying sentences without reduction. On appeal, Jones does not challenge the district court's decision to revoke probation, but argues that the district court abused its discretion in failing to retain jurisdiction or reduce her sentences upon revocation.

The primary purpose of the retained jurisdiction program is to enable the trial court to obtain additional information regarding the defendant's rehabilitative potential and suitability for probation, and probation is the ultimate objective of a defendant who is on retained jurisdiction. *State v. Chapel*, 107 Idaho 193, 687 P.2d 583 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982). There can be no abuse of discretion in a trial court's refusal to retain jurisdiction if the court already has sufficient information upon which to conclude that the defendant is not a suitable candidate for probation. *State v. Beebe*, 113 Idaho 977, 979, 751 P.2d 673, 675 (Ct. App. 1988); *Toohill*, 103 Idaho at 567, 650 P.2d at 709. Based upon the information that was before the district court at the time of sentencing, we hold that the district court did not abuse its discretion when it declined to retain jurisdiction in this case.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *Toohill*, 103 Idaho at 568, 650 P.2d at 710. When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of the probation. *Id.* Thus, this Court will consider the elements of the record before the trial court that are properly made part of the record on appeal and are relevant to the defendant's contention that the trial court should have reduced the sentence upon revocation of probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012).

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion. Therefore, the order revoking probation and directing execution of Jones's previously suspended sentences is affirmed.